
BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT FUND
Resolution No. 06-05

Adopting rules related to service credit and leaves of absence.

WHEREAS, the Public Employees' Retirement Fund exists to provide retirement benefits to public employees of the state of Indiana and participating political subdivisions and to their survivors and beneficiaries;

WHEREAS, the Board of Trustees of the Public Employees' Retirement Fund, by statute, administers the Public Employees' Retirement Fund;

WHEREAS, the Board of Trustees of the Public Employees' Retirement Fund, pursuant to [IC 5-10.3-3-8](#), may establish and amend rules and regulations for the administration of the Fund without adopting a rule under Indiana Code 4-22-2; and

WHEREAS, the Board of Trustees of the Public Employees' Retirement Fund wishes to amend rules contained in the Indiana Administrative Code related to service credit and leaves of absence.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Public Employees' Retirement Fund that:

SECTION 1. THE BOARD HEREBY AMENDS THE INDIANA ADMINISTRATIVE CODE BY REPLACING CURRENT SECTION [35 IAC 1.2-3-4](#) WITH THE FOLLOWING:

[35 IAC 1.2-3-4](#) Full service credit

Authority: [IC 5-10.3-3-8](#)

Affected: [IC 5-10.2](#); [IC 5-10.3](#)

Sec. 4. (a) General rule – Except as otherwise specifically required by law, for all service credit calculations performed on or after January 1, 2007, service credit shall be granted in quarterly increments, with a member entitled to one (1) quarter of creditable service for each calendar quarter in which the member is employed at least one (1) full day in a full-time, PERF-covered position, and for which employer contributions have been made. Notwithstanding any provision to the contrary, service credit shall not be granted for any period of employment if such grant of service credit would result in a member receiving more than one (1) month of service credit for the same calendar month.

(b) First and last quarter of PERF-covered employment – Notwithstanding the general rule under subsection (a) immediately above, for those quarters in which a member commenced or completed employment in a PERF-covered position, service shall be granted in monthly increments, with a member entitled to one (1) month of creditable service for each month in which he was employed at least one (1) full day in a full-time, PERF-covered position, and for which employer contributions have been made.

(c) Employer contributions required to fund a member's covered service must be received by PERF prior to full service credit being granted for that member.

(d) This rule applies only to members earning service credit through their employment in PERF-covered positions, and does not apply to members of the other retirement funds administered by PERF. Such funds shall continue to perform service credit calculations in the manner such calculations were performed as of December 1, 2006, unless subsequently amended by law.

SECTION 2. THE BOARD HEREBY AMENDS THE INDIANA ADMINISTRATIVE CODE BY REPLACING CURRENT SECTION [35 IAC 1.2-3-5](#) WITH THE FOLLOWING:

[35 IAC 1.2-3-5](#) Leave of absence

Authority: [IC 5-10.3-3-8](#); [IC 5-10.3-7-8](#)

Affected: [IC 5-10.2](#); [IC 5-10.3-7-6](#)

Sec. 5. (a) As used in this section, "FMLA" refers to the Family and Medical Leave Act (29 U.S.C. 2601 et seq.) and all applicable regulations and amendments.

(b) A member shall receive service credit for the period of time during which the member is granted a leave of

absence under [IC 5-10.3-7-6](#) and for which applicable employer contributions have been made as follows:

(1) Except as otherwise required by the FMLA, the credit shall be allowed only if a copy of the grant of the leave of absence is filed with PERF within ninety (90) days from the date the leave was authorized by the employer. No leave granted retroactively by the employer will be considered as creditable service.

Furthermore, except as otherwise required by the FMLA or other federal or state laws that specifically require the granting of service credit for authorized unpaid leaves of absence, service credit shall not be granted for any unpaid leaves of absence taken on or after January 1, 2007, if employer contributions are not made for such periods of leave.

(2) A leave of absence will be treated as creditable service only if the member returns to employment for a period of not less than six (6) consecutive months; however, if the member shows to the satisfaction of the board that there was a bona fide intent to return to employment and comply with this rule and the member was capable of performing such employment, but was prevented from working the full six (6) month period due to illness, injury, or death which occurred subsequent to the date of return to employment, then this six (6) month requirement shall be waived.

(c) This section and [IC 5-10.3-7-6](#) shall be administered in a manner consistent with the FMLA.

(d) If the member is compensated while on an FMLA-covered leave, the statutory contributions must be maintained. A member may make contributions as provided in [IC 5-10.3-7-6\(b\)](#) during an unpaid FMLA leave, although such contributions shall not result in service credit for benefit purposes unless employer contributions are made for such period of leave. The member's employer is not required to make contributions with respect to an unpaid FMLA leave; however, if employer contributions are not made, the member shall be entitled only to the eligibility service required by the FMLA.

(e) In calculating credit for vesting and eligibility purposes, time spent on an FMLA protected leave shall be counted, including any time spent receiving disability benefits while on such leave.

(f) A member seeking credit for an FMLA leave must provide documentary evidence demonstrating that the statutory requirements have been satisfied.

DATED: 10/20/06

Ken Cochran
Chairman
Board of Trustees
Public Employees' Retirement Fund

Resolution adopted by a vote of: 6 in favor and 0 opposed on this 20th day of October, 2006.

Ken Cochran
Chairman
Board of Trustees
Public Employees' Retirement Fund

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